1230.

SUPREME COURT OF THE UNITED STATES.

No. 151.

FRANCIS A. DICKENS'S LESSEE, PL'FF IN ERROR,

vs.

ALONZO MAHANA.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF OHIO.

INDEX.

	Original.	Print.
Declaration	1	1
Notice and affidavit of service	3	2
Security for costs	4	2
Leave to amend declaration	4	3
Leave to plead	4	3
Plea and consent rule	5	3
Verdict	5	4
Verdict reversed and judgment	6	4
Bill of exceptions	7	5
Exhibits attached to bill of exceptions	9	6
Plat	19	11
Plat	26	17
Plat and description	33	21
Allowance of writ of error	41	28
Bond to prosecute writ of error	41	29
Clerk's certificate	43	29
Writ of error	44	29
Citation and service	45	30

GIDEON, print.

Pleas begun and held at the court-house in the city of Cincinnati, on the third Tuesday in the month of December, that being the sixteenth day of that month, in the year of our Lord one thousand eight hundred and fifty-six, and of the independence of the United States of America the eighty-first, before the honorable Humphrey H. Leavitt, one of the judges of the circuit court of the United States, within and for the southern district of Ohio.

Among other proceedings had, were the following, to wit:

LESSEE OF FRANCIS A. DICKENS
vs.
ALONZO MAHANA. } In ejectment.

Be it remembered, that heretofore, to wit, on the thirtieth day of November, being at the October term of said court in the year of our Lord one thousand eight hundred and fifty-five, came the said John Doe by his attorney, and filed his certain declaration in an action of ejectment against the said Richard Roe, together with notices and affidavit of service thereto annexed, which said declaration, notice and affidavit are respectively in the words and figures following, to wit:

Declaration.

THE UNITED STATES OF AMERICA, *ss.*

Circuit Court of the United States, seventh circuit and southern district of Ohio.—October term, 1855.

John Doe, a citizen and resident of the State of Virginia, complains of Richard Roe, a citizen and resident of the State of Ohio, for that Francis A. Dickens, a citizen and resident of the State of Virginia, on the first day of October, A. D. 1855, at the county of Morgan, in the said southern district of Ohio, had demised to the said John the following lands and tenements, to wit: Hundred acre lot No. 8, in Donation tract, in the ninth township, and eleventh range of lands in said county of Morgan, and district aforesaid, and also two hundred acres of other lands situated in said county of Morgan, and district aforesaid, with the appurtenances, to have and to hold the same to the said John from the said first day of October, A. D. 1855, for and during the term of twenty years, thence next ensuing. By virtue of which said demise, the said John entered into the said several tenements with the appurtenances, and became and was possessed thereof, for the said term so to him thereof granted as aforesaid; and the said John Doe being so thereof possessed,

the said Richard afterwards, to wit, on the second day of October, A. D. 1855, at the county of Morgan, in the district aforesaid, with force and arms entered into the said several tenements, with the appurtenances, in which the said John Doe was so interested, in manner and for the term aforesaid, which is not yet expired, and ejected the said John Doe from his several farms, and other wrongs to the said John then and there did, to his damage of $500, and thereof he sues, etc.

CHAS B. GODDARD,
Att'y for Pl'ff.

Notice.

Mr. ALONZO MAHANA:

SIR: I am informed you are in possession of or claim title to the premises in the declaration mentioned, or to some part thereof, and being sued in this action as a casual ejector, and having no title to said premises, do advise you to appear at the next or October term for 1855, of the circuit court of the United States for the southern district of Ohio, to be holden at Cincinnati, in said State of Ohio, and make yourself defendant in my stead; otherwise, judgment will then be entered against me by default, and you will be turned out of possession.

RICHARD ROE.

Oct. 2, 1855.

Affidavit of Service.

I, James H. Roland, do solemnly swear, that on the 20th day of October, 1855, I delivered to Alonzo Mahana, the tenant in possession of the lands described in the within declaration, a true copy of the within declaration and notice, and explained the meaning thereof to him, and informed him that unless he appeared in the circuit court of the United States for the southern district of Ohio, within forty days from that day, and caused himself to be made defendant in lieu of said Richard Roe, that judgment would be rendered by default, and he, the said Alonzo Mahana, would be turned out of possession.

JAS. H. ROLAND.

Subscribed and sworn before me, this 22d day of October, A. D. 1855.

JAMES A. ADAIR,
Justice of the Peace.

Security for Costs.

Upon which said declaration was the following endorsement for security for costs, to wit: I, Thomas Ewing, jr., acknowledge myself security for all costs for which the plaintiff may be liable in this suit.

THO. EWING, JR.

Leave to amend Dec'n.

And afterwards, in this same term of October, in the year of our Lord one thousand eight hundred and fifty-five, to wit, on the 30th day of November, in the year last aforesaid, on motion of Thomas Ewing, jr., of counsel for plaintiff, leave was granted to amend the declaration in this case, so that the demise of Francis A. Dickens to the casual ejector shall bear date on the first day of October, A. D. 1855, and so that the ouster of the said John Doe by the said Richard Roe shall bear date on the 2d day of October, A. D. 1855, which amendments were accordingly made.

Continuance.

And thereupon this cause was continued until the next April term.

Continuance.

And afterwards, to wit, at the said April term of said court, in the year of our Lord one thousand eight hundred and fifty-six, this cause was further continued until the next October term of said court.

Leave to Plead.

And afterwards, in the same term of October, in the year of our Lord one thousand eight hundred and fifty-six, to wit, on the twelfth day of November, in the year last aforesaid, on motion to the court, it is ordered that the default for plea herein be set aside, and leave is given the said defendant to file his plea, and consent rule in this case. And thereupon the said defendant, by his attorney, filed his plea and consent rule, which are in the words and figures following, to wit:

Plea and Consent Rule.

THE UNITED STATES OF AMERICA.

Circuit Court of the United States, seventh circuit and southern district of Ohio.

JOHN DOE, ex demise FRANCIS A. DICKENS,
vs.
ALONZO MAHANA.

On application to the court, it is ordered that Alonzo Mahana be made defendant herein in the place of the now defendant, Richard Roe. And now comes the said Alonzo Mahana, and confesses the lease, entry, and ouster in the said declaration mentioned, and admits himself to be in possession of hundred acre lot number eight, in Donation tract, in the ninth township and eleventh range of lands in said county of Morgan and district aforesaid, parcel of the premises in the said declaration mentioned, and for plea says, that

he is not guilty of the trespass and ejectment in the said declaration alleged against him, and of this he puts himself upon the country, and the plaintiff doth the like.

NYE & HANNA,
Atty's for Deft's.

Continuance.

And thereupon this cause was continued.

Journal Entry.

And afterwards, in this same October term of said court, in the year of our Lord one thousand eight hundred and fifty-six, to wit, on the 21st day of November, in the year last aforesaid, on motion to the court, and by agreement of parties, it is ordered that the continuance entered in this case on a former day of this term be set aside.

Verdict.

And thereupon came the parties, by their attorneys, and to try the issue joined came a jury, to wit: James Reynolds, Richard Cowling, Bart. Smith, Robert Cloud, Levi Buckingham, Wm. Schillinger, F. A. Harris, Joshua Jones, F. Holliday, D. W. Dryden, John W. Riley, and John Barkelt, who being empanelled and sworn the truth to speak upon the issue joined between the parties, upon their oaths do say, that the said defendant is guilty of the trespass and ejectment laid to his charge in manner and form as the said plaintiff hath complained against him, and they assess the damages of the said plaintiff, by reason thereof, to one cent; which verdict was, however, rendered, subject to the opinion of the court on the questions of law arising in this case, and the court not being fully advised what opinion to render, take the same under further advisement, and this cause is continued.

Judgment.—Verdict Reversed.

And now, at the time and place first herein mentioned, to wit, at the December term of said court, in the year of our Lord one thousand eight hundred and fifty-six, come the parties, by their attorneys, and in pursuance with the agreement heretofore entered into by the counsel in this case, the entry heretofore made in this case, after the empanelling of the jury, is hereby set aside, and the following entry made. This cause came on for trial upon the issue joined between the parties before a jury, who having heard the proofs and allegations of the parties, and the charge of the court upon the law governing the case, returned their verdict in this case, finding that the defendant is not guilty of the trespass and ejectment in the plaintiff's declaration mentioned, whereupon the court

render judgment that the defendant go hence without day, and recover from the plaintiff his costs in this suit expended, taxed at $53 05. And it is admitted by the parties that the property in dispute in this case is of the value of two thousand dollars and upward. The plaintiff excepted to the charge of the court in this case, and filed his bill of exceptions, which was duly signed by the court, and made a part of the record in this case; which bill of exceptions is in the words and figures following, to wit:

Bill of Exceptions.

LESSEE OF FRANCIS A. DICKENS
vs.
ALONZO MAHANA.

Be it remembered, that on the trial this cause was submitted to the jury, by agreement of counsel, upon the evidence and admissions of facts referred to and contained in the paper hereunto annexed (marked A B,) which paper, with the documents thereunto annexed, and therein referred to and recited, was used upon the trial, by counsel on both sides, as an agreed statement of the evidence and facts in the case. And said evidence and admissions having been all given in evidence, and read to the jury, and no other evidence being offered by either party, the court thereupon charged the jury—

1st. That the proofs and legal presumptions sustaining the title of the defendant must have reference solely to, and be based upon, the act of Congress approved March 18th, 1818, entitled "An act providing for the sale of certain lands in the district of Marietta," &c., in connection with the act of the 21st of April, 1792, granting to Rufus Putnam and others, as agents and trustees, one hundred thousand acres called the Donation tract, and that in the absence of any express authority to any other officer to make the selection of school-lands in said Donation tract, by a fair construction of said act of 1818, the register of the land office at Marietta rightfully exercised such authority.

2d. That all the evidence and admissions of facts in the case raised a legal presumption that the said register of the land office at Marietta had exercised the authority so vested in him by said act of March 18, 1818, prior to the entry and patent under which the plaintiff claims title, by legally selecting the lands in controversy in this suit (with other lands) for the support of schools in said township nine in range eleven, and it was therefore their duty to return a verdict for the defendant.

To which instructions of the court the plaintiff, by his counsel, excepted, and prayed that this, his bill of exceptions, be signed and sealed in open court, and made a part of the record in this cause, all which is done accordingly.

H. H. LEAVITT. [SEAL.]

Exhibit "A B."

Exhibit marked "A B," annexed to and made part of the foregoing bill of exceptions, and therein referred to, is in the words and figures following, to wit:

In U. S. Circuit Court for southern district of Ohio.

LESSEE OF FRANCIS A. DICKENS
vs.
ALONZO MAHANA. } Ejectment.

The parties to this suit, by their counsel, agree to submit this cause upon the following evidence and agreed statement of facts, viz:

Plaintiff's Evidence.

1st. A patent duly issued by the President of the United States to Samuel A. H. Marks, conveying to him lots No. seven and eight, in the Donation tract, Marietta district, Ohio, in township nine, of range eleven, in the district of lands subject to sale at Chillicothe, Ohio, containing two hundred acres, dated July 1st, 1851, a copy of which patent, marked "A," is hereto annexed.

2d. A deed duly executed and acknowledged by the said Samuel A. H. Marks, conveying to Thomas Ewing, jr., in fee simple, said lots No. seven and eight above described, dated July 29th, 1851.

3d. A deed from said Thomas Ewing, jr., duly executed and acknowledged, conveying to Joseph J. Coombs, in fee simple, one undivided half of said lands, dated December 12th, 1851.

4th. A deed from the said Thomas Ewing, jr., and Joseph J. Coombs, duly executed and acknowledged, conveying said lands to Francis A. Dickens, (the lessor of the plaintiff,) in fee simple, dated the 22d day of August, 1855.

Defendant's Testimony.

Exemplifications from the records and files of the General Land Office of certain papers, viz:

1st. The proclamation of the President of the United States for sales at Marietta, of lands belonging to the United States, in said Donation tract, pursuant to the act of Congress of March 18, 1818, and for sales at Vincennes of lands also mentioned in said act, dated 20th March, 1819.

2d. A certified copy of a plat of the ungranted lands in the Donation tract of one hundred thousand acres, lying in S. 9, R. 11, surveyed by Joseph Francis in 1818.

3d. A description of the lands surveyed, with the field-notes, &c.

4th. Letter from the Secretary of the Treasury to Joseph Wood, register at Marietta, dated July 13th, 1805, communicating certain selections of school lands for certain townships, in lieu of section 16, which had been sold or disposed of.

5th. Copy of plat of part of Marietta district, showing tracts A, B, C, and D, within the one hundred thousand acre or Donation tract; (said tracts A and C being the same referred to in the above letter of July 13, 1805,) and indicating the ranges, townships, and sections of the lands bounding said Donation tract on the south and west, and also indicating by a X, the places where section sixteen would fall, if the surveys of the adjoining lands were carried through.

6th. Letter from the Commissioner of the General Land Office to Wyllys Silliman, register, Zanesville, dated 18th November, 1819, acknowledging the receipt of a letter from Mr. Silliman, of the 8th of same month, and saying, "the Secretary of the Treasury has approved of the selection of the three unsold quarters of sec. twenty-one, six and ten, and of the S. W. $\frac{1}{4}$ of sec. 15, same township and range, for the use of schools, in lieu of sixteen, five and ten," and directing said Silliman to reserve them from sale.

7th. Copies of entries made on a tract-book in the General Land Office, showing the disposition made of lands in sections fifteen and twenty-one in T. six, R. ten. All which papers are hereunto annexed, certified by John Wilson, acting Commissioner of the General Land Office, under date of August 9, 1852, occupying eleven pages, marked from one to eleven inclusive.

8th. It is admitted that the defendant was in possession of the land in dispute at the time the same was entered by the said Marks, claiming to hold the same by a lease from the trustees of Windsor township, Morgan county, which is composed in part of fractional township nine, range eleven, in the district of lands now subject to sale at Chillicothe, being formerly in the Marietta land district, and that he had been so in possession from the year 1834, claiming to hold the same as school lands, belonging to said township nine, R. eleven. The trustees of which township took possession thereof, as also of lots six, nine, ten, thirty-four and fifty-nine, in 1834, as school land, and rented it as such. Also that, before and at the time of the entry by Marks, he, the defendant, was in the actual cultivation of and had an actual settlement upon said land, and it is admitted that he had given no consent to the entry by said Marks at the land office.

9th. It is also agreed, that so much of the printed volume of instructions and opinions of the Secretary of the Treasury and Commissioner of the General Land Office, printed by Gales & Seaton, in 1838, in pursuance of a resolution of the Senate, dated February 28, 1837, may be read in evidence as may be applicable to this case, in lieu of exemplified copies.

10. It is also admitted, that township nine of range eleven is a fractional township, containing a greater quantity of land than one-half and not more than three-quarters of a township, and that no selection of school lands has ever been made for said township, unless the land now in controversy is such.

11. It is also admitted that said lots No. six, seven, eight, nine, ten, thirty-four and fifty-nine, constitute the south end of tract "C," referred to in the letter of the Secretary of the Treasury of July 13, 1805.

12. Certificate of Anthony Walke, register of the Chillicothe land office, dated Sept. 22d, 1852, and which, it is admitted, is a true extract from the tract-book formerly kept in the land office at Marietta, of which office it is admitted that Joseph Wood was register from 1803 to a date later than 1834; which certificate of Anthony Walke is hereto annexed, marked "E." It is also admitted that, on the new tract-book made out in 1840, and used in the Chillicothe land district since that period, the land was not designated as school land.

12th. The deposition of said Anthony Walke, taken the 20th of December, 1852, in the case of John Doe, ex demise Ewing and Coombs, vs. John Lane, then pending in the court of common pleas of Morgan county, Ohio; which deposition, marked "F," is hereto annexed.

13th. It is also admitted that the trustees of township five, range ten, never accepted or took possession of the land on the south end of tract "C," selected by the Secretary of the Treasury as school lands for said township on the 13th of July, 1805, but that the trustees of said township did take possession of the S. W. quarter of section 15, and the N. E., S. E., and S. W. quarters of section 21, in T. six, R. ten, selected on the 17th of November, 1819; which last mentioned lands have been held and enjoyed as school lands by said township ever since.

14th. It is also admitted by the plaintiff that the paper hereunto annexed, (marked "G,") with the caption, "Remnant of the Donation tract of one hundred thousand arces, in township No. 9, of range No. 11," and signed "Joseph Wood, register," and dated Feb. 6th, 1835, was obtained by the defendant from the files of the county auditor's office of Morgan county, Ohio, and that it is all in the handwriting of Joseph Wood, late register of the land office in Marietta.

Further evidence on behalf of the Plaintiff.

Exemplified copies of certain papers from the files and records of the General Land Office, certified by "Thos. Hendricks, commissioner," dated March 31, 1836, occupying eleven pages, numbered from one to eleven inclusive, containing—

1st. An order of the board of commissioners of Washington county, Ohio, ordering a meeting of the qualified electors of township five, in range ten, to elect trustees and a treasurer to take charge of school lands for said township, dated June 13, 1818, and signed by "Dan'l H. Buell, cl'k com'rs."

2d. Record of the election of Obadiah Scott, esq., Gen. Eli Cogswell, and Capt. James Leget, trustees, and Capt. Rothurs Hayward, treasurer of school lands in said township, dated August 3d, 1818.

3d. Petition of said Scott, Leget, and Cogswell, trustees as aforesaid, to the Secretary of the Treasury, praying to have school lands selected for said T. five, R. ten, in lieu of section sixteen, which had been sold and disposed of, dated Oct. 4, 1818.

4th. Letter of Joseph Wood, register, at Marietta, to Josiah Meigs, Commissioner of the General Land Office, dated January 2, 1819.

6th. Letter from same to same, dated April 23d, 1819.

7th. Letter from the Commissioner of the General Land Office to Joseph Wood, register, Marietta, dated Sept. 7th, 1819.

8th. Letter from Joseph Wood to Josiah Meigs, esq., Com'r G. L. O., dated Sept. 14th, 1819.

9th. Letter from the Commissioner of the General Land Office to the Secretary of the Treasury, dated Sept. 29, 1819.

10th. Letter from the Commissioner of the General Land Office to Wyllis Silliman, reg'r, Zanesville, dated Sept. 30, 1819.

11th. Letter from same to same, dated October first, 1819.

12th. Letter from same to same, dated November 18th, 1819.

13th. Extract of a letter from the Commissioner of the General Land Office to John Badobt, esq., reg'r, Vincennes, dated January 14th, 1820.

All of which are hereunto annexed.

Copy of Patent.

Copy of patent marked "A" attached to the foregoing exhibit, and therein referred to, to wit:

Received for record January 12th, A. D. 1852, and recorded 24th of the same month.

The United States of America to all to whom these presents shall come, greeting:

Whereas in pursuance of the act of Congress approved September 28th, 1850, entitled "An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," warrant No. 1328 for 160 acres, issued in favor of Samuel A. H. Marks, sergeant United States marine corps, Florida war, has been returned to the General Land Office with evidence that the same has been duly located upon the lots number seven and eight (in the Donation tract, Marietta district, Ohio,) in township nine, of range eleven, in the district of lands subject to sale at Chillicothe, Ohio, containing two hundred acres, according to the official plat of the survey (of) the said land returned to the General

Land Office by the surveyor general, excess paid for, per receiver's receipt number 17,490:

Now know ye, that there is therefore granted by the United States unto the said Samuel A. H. Marks the tract of land above described: To have and to hold the said tract of land, with the appurtenances thereof, unto the said Samuel A. H. Marks, and to his heirs and assigns forever.

In testimony whereof, I, Millard Fillmore, President of the United States of America, have caused these letters to be [L. S.] made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the first day of July, in the year of our Lord one thousand eight hundred and fifty-one, and of the independence of the United States the seventy-fifth.

By the President, MILLARD FILLMORE.

By ALEX. MCCORMICK, *Ass't Sec'y.*

E. S. LERY,
Recorder of the General Land Office.

Record of Miscellaneous Military Grants, vol. 1, page 170.

THE STATE OF OHIO,
Morgan county, ss.

I, David B. Shivel, recorder in and for said county, hereby certify that the foregoing deed from the United States to Samuel A. H. Marks is truly taken and copied from the records of said county, as recorded in book T, page 291.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of my office at McConnelsville, this 1st [SEAL.] day of September, A. D. 1853.

D. B. SHIVEL, *R. M. C.*

Proclamation of the President, dated 20th March, 1819.

Sales at Marietta and Vincennes, No. 33.

By the President of the United States.

Whereas by the act of Congress passed on the 18th day of March, 1818, entitled "An act providing for the sale of certain lands in the district of Marietta, and for the location of claims and certain lands in district of Vincennes, the President of the United States is authorized to cause certain lands to be offered for sale in the said districts: therefore I, James Monroe, President of the United States, do hereby declare and make known that public sales for the disposal (agreeably to law) of the lands belonging to the United States within the limits of the tract of 100,000 acres granted in trust to Rufus Putnam and others, for the Ohio Company of Asso-

ciates, by the act of 21st April, 1792, shall be held at Marietta, on the first Monday in June next, and that public sales for the disposal (agreeably to law) of the lands belonging to the United States in the tract set apart for the location of private claims by an act entitled "An act respecting claims to land in the Indiana Territory and State of Ohio," passed the 21st of April, 1806, shall be held at Vincennes, on the first Monday in July next, excepting such lands as have been, or may be, reserved by law for the use of schools, or for other purposes. Each sale shall continue six days and no longer.

Given under my hand at the city of Washington, the 20th day of March, 1819.

By the President:

(Signed) JAMES MONROE.

(Signed) JOSIAH MEIGS,
Comm'r of the G. Land Office.

Printers of newspapers in Ohio, Indiana, Illinois, and Missouri, who are authorized to publish the laws of the U. S., will insert the above once a week till the 1st of July next.

No sales at Vincennes. See the proclamation of the 19th of April, 1821, No. 45.

Plat of the ungranted lands in the Donation tract of 100,000 acres granted to actual settlers, lying in township No. 9, range No. 11, surveyed by Jos. Francis, 1818.

[*For plat see original, page* 19.]

A true copy of the original plat on file in the surveyor general's office.

SAM'L WILLIAMS, *Ch. Clerk.*

Description of the ungranted Lands in Township No. 9, *Range* 11, *laid out into lots numbered* 6 *to* 34 *inclusive,* (*Marietta district.*)

Posts.	Bearing trees.	Inches diam.	Courses they bear.	Links dist.
A	W. oak.....	18	N. 40 W.	18
a	Beech.....	22	S. 26 E.	16
	Do.	10	N. 22 W.	49
B	W. oak.....	12	N. 62 E.	4
b	Maple	12	N. 27 W.	24
	Sugar.....	8	S. 19 E.	26
C	Gum.....	9	N. 47 W.	25
	W. oak.....	12	N. 63 E.	33
c	Beech.....	8	N. 84 E.	33
	Do.	8	N. 55 W.	43
D	W. oak.....	20	S. 43 E.	14
	Hickory.....	14	N. 62 E.	27
d	W. oak.....	12	S. 6 W.	6
	Do.	10	N. 41 E.	10
E	Ash.....	17	S. 11 W.	15
	W. oak.....	10	S. 75 E.	15
e	Hickory.....	14	N. 45 W.	18
	Do.	9	S. 24 E.	28
F	Dogwood.....	5	N. 11 W.	12
	Ches't oak.....	12	S. 7 E.	36
f	B. oak.....	20	North	12
G	Maple	8	S. 50 E.	7
	Beech	6	S. 83 E.	18
g	Beech	12	S. 39 W.	23
	W. oak.....	8	North	14
H	W. oak.....	6	N. 22 W.	22
	Poplar	10	N. 79 E.	11
h	Gum.....	16	N. 5 W.	21
	Dogwood	4	S. 27 W.	25
I	Gum.....	9	S. 70 W.	20
	Ches. oak.....	20	S. 86 E.	35
i	Beech	13	West	30
	Hickory.....	14	N. 76 E.	21
K	W. oak.....	12	S. 42 W.	19
	B. oak.....	22	N. 23 W.	12
k	W. oak.....	20	S. 50 E.	26
	B. oak.....	16	N. 85 E.	27
L	Beech.....	8	Corner.	
	Do.	20	S. 54 W.	37
	Do.	8	S. 89 E.	14
l	Beech	10	S. 6 E.	12
M	W. oak.....	36	S. 8 E.	12

Description—Continued.

Posts.	Bearing trees.	Inches diam.	Courses they bear.	Links dist.
	Elm	7	N. 32 E.	15
	Sugar		Corner.	
m	Beech	13	N. 85 W.	28
	Iron-wood	7	S. 40 E.	10
N	Ches. oak	16	S. 28 W.	42
	Hickory	8	N. 51 E.	45
n	W. oak	14	N. 18 E.	9
	Do.	14	S. 16 E.	19
	W. oak		Corner.	
O	Do.	16	N. 68 W.	14
	Do.	14	N. 52 E.	26
o	W. oak	24	S. 62 E.	22
	Sugar	14	S. 75 W.	24
P	Ches. oak	8	N. 1 W.	35
	W. oak	9	S. 10 E.	18
p	Dogwood	6	N. 42 W.	4
	W. oak	14	S. 28 E.	15
Q	B. oak	22	North	48
q	Beech	12	N. 8 E.	40
R	W. oak	8	S. 65 W.	15
	Beech	12	N. 84 E.	32
r	W. oak	12	S. 4 E.	8
	Do.	14	N. 4 W.	14
S	W. oak	24	S. 41 W.	23
	B. oak	18	N. 44 E.	41
s	Dogwood	6	North	4
	Do.	6	S. 5 E.	41
T	Dogwood	8	N. 43 E.	27
	Do.	4	S. 10 E.	4
t	Beech	14	N. 72 W.	11
	Do.	14	S. 46 E.	20
U	Beech	10	S. 16 E.	18
	Dogwood	5	S. 72 W.	25
u	B. oak	20	S. 81 W.	21
	Dogwood	5	N. 71 E.	16
A to C				
a to B				
B to C	Hilly land—oak.			
C to D	Rolling oak and hickory.			
D to E				
E to F	Hilly and poor.			

Interior corners of lots described.

Corners of lots.	Bearing trees.	Inches diam.	Courses they bear.	Links dist.
25, 26, on West	W. oak.....	16	S. 47 E.	16
	Dogwood.....	5	N. 17 W.	16
26, 27, W.	W. oak.....	16	N. 88 W.	25
	Do	16	S. 59 E.	16
27, 28, W.	W. oak.....	36	S. 50 E.	45
	Ash..... ...	10	N. 37 W.	22
28, 29, W.	Hickory.....	14	North	10
	Poplar.....	18	S. 14 E.	36
29, 30, W.	Dogwood.....	5	S. 54 W.	12
	Poplar.....	24	East	33
30, 31, W.	Poplar.....	12	North	4
	B. oak.....	20	South	30
31, 32, W.	B. oak.....	24	S. 11 E.	12
	Dogwood.....	5	N. 30 W.	29
32, 33, W.	B. oak.....	16	S. 36 E.	15
	W. oak.....	14	S. 12 W.	32
33, 34, W.	Hickory	12	S. 50 W.	25
	Do	10	S. 85 E.	15
23, 24, E.	W. oak.....	12	S. 23 E.	18
	Do	9	N. 2 E.	20
22, 23, E.	Sugar.....	10	S. 13 E.	25
	Poplar.....	16	N. 60 W.	32
21, 22, E.	W. oak.....	16	N. 79 E.	9
	B. oak.....	14	S. 50 W.	16
20, 21, E.	Hickory.	.....	Corner.	
	Do	12	N. 50 W.	26
	B. oak.....	18	S. 54 E.	46
19, 20, E.	Beech.....	.....	Corner.	
	B. oak.....	20	N. 47 E.	23
	W. oak.....	20	N. 24 W.	56
18, 19, E.	Chest. oak....	14	S. 57 W.	9
	Span. oak.....	15	N. 64 E.	23
17, 18, E.	Maple	10	N. 3 W.	31
	Hickory.	6	S. 50 W.	27
16, 17, E.	W. oak.....	10	N. 3 E.	17
	Dogwood.....	8	S. 60 W.	21
15, 16, E.	W. oak.....	18	S. 81 W.	62
	Hickory.	10	S. 69 E.	63
14, 15, E.	Hickory.	12	S. 2 E.	4
	B. oak.....	15	N. 42 E.	25
13, 14, E.	B. oak.....	20	N. 73 E.	8

Interior corners of lots described—Continued.

Corners of lots.	Bearing trees.	Inches diam.	Courses they bear.	Links dist.
	Poplar.....	12	N. 39 W.	18
12, 13, E.	B. oak.....	14	N. 63 E.	9
	W. oak.....	9	S. 57 W.	20
11, 12, E.	Hickory.	10	N. 20 W.	12
	Poplar.....	12	S. 9 W.	16
10, 11, E.	Hickory.	9	N. 11 W.	8
	Do	11	S. 30 W.	14
9, 10, E.	Dogwood.....	5	N. 49 W.	8
	Do	6	N. 87 E.	14

Between Lots	Quality, &c.
25 & 26	Good rolling land; oak, sugar, and beech.
26, 27	Hilly, oak and hickory.
27, 28	Hilly, b. and w. oak.
28, 29	
29, 30	Hilly; broken land, oak and hickory.
30, 31	Hilly, poor land.
31, 32	Hilly; oak, hickory, and beech.
32, 33	Hilly; bad land, oak and hickory.
23, 24	Rolling land, oak and hickory.
22, 23	Same.
21, 22	Same.
20, 21	Rolling; hickory, poplar, and oak.
19, 20	Rolling; rich land, oak, hickory, and beech.
18, 19	Rolling; good land, same.
16, 17	Hilly; oak, hickory, and beech.
15, 16	Hilly; poor land, oak.
14, 15	Hilly; bad land, oak and hickory.
13, 14	Hilly, bad land.
12, 13	Same.
11, 12	Hilly land; oak, hickory, and beech.
10, 11	Hilly, broken land.
9, 10	Hilly, bad land.
8, 9	Broken land, oak and hickory.
7, 8	Hilly, bad land.
6, 7	Hilly; bad land, oak, hickory, and beech.

Letter from Sec'y of Treasury to Jos. Wood, Reg'r.

TREASURY DEPARTMENT,
July 13, 1805.

SIR: I wrote you on the 11th inst. on the subject of the selection of certain reserved sections, in lieu of such sections No. 16 as might have been sold, granted, or disposed of. That letter was circular to the several registers; but there are circumstances in your district which render a further communication necessary: 1st, you are to understand that if any section No. 16 had been sold at Marietta, in that part of the district which has since been attached to Zanesville, you may select, in lieu of such section or sections, such unappropriated reserved section or sections also lying in the same or contiguous townships, and within the present boundaries of the Zanesville district, as will be wanted to replace the section No. 16 thus sold; in which case you will be pleased to transmit a list thereof to the register of that land office, in order that he may except them from the public sales. 2d. There are, within the limits of the Ohio Company purchase, two tracts sold or granted to the said company in which no reservations or appropriations were made by Congress, and in which, therefore, the section No. 16 has been sold or granted. For a clearer elucidation of that point, I refer you to the plat some time since transmitted, and to the enclosed copy of a communication made on the same subject by me during the last session of Congress to Mr. Tallmadge, chairman of a committee of the House of Representatives. To I will add, that by an inspection of the plat, it seems that in the 100,000 acre or Donation tract there were only four entire and four fractional sections No. 16, one of which last, being included in the tract "C," was not ceded by the Ohio Company, and remains undisposed of. In lieu of the seven sections, or fractional sections No. 16, contained in the said tract of 100,000 acres, I have selected the following:

To replace—	Select—
Section 16, township 3, range 8.	Section 8, township 3, range 8.
" 16, " 3, " 9.	" 8, " 3, " 9.
" 16, " 4, " 10.	" 8, " 4, " 10.
" 16, " 8, " 11.	" 8, " 8, " 11.
Fract'l 16, township 4, range 8.	An equal quantity of the tract "A," lying in township 4, range 8, within the said Donation tract, and to be laid on the north end of the same.
" 16, " 4, " 9.	
" 16, " 5, " 10.	An equal quantity of tract "C," lying in township 9, range 11, within the said Donation tract, and to be laid on the south end of the same.

And in lieu of the ten sections, No. 16, contained within the other tract of 214,000, I have selected the following, viz:

In lieu of section No. 16, in—	Select—
Township 8, range 12.	Section 8, township 8, range 12.
" 7, " 13.	" 8, " 7, " 13.
" 11, " 14.	" 8, " 11, " 14.
" 13, " 15.	" 8, " 13, " 15.
" 8. " 16.	" 26, " 8, " do.
" 9, " do.	" 26, " 9, " do.
" 10, " do.	" 26, " 10, " do.
" 11, " do.	" 26, " 11, " do.
" 12, " do.	" 26, " 12, " do.
" 13, " do.	" 26, " 13, " do.

All which sections thus selected by me you will except from the public sales; and will also enter on your entry-book in the following manner, viz: The Secretary of the Treasury has selected the following tracts of land (here insert the section, township, and range) in lieu of the following sections, No. 16, which had been otherwise disposed of within the Ohio Company purchase, viz: &c. To Joseph Wood, esq., register, Marietta, Ohio.

(The foregoing letter is copied from a record now in the General Land Office, kept at the date thereof in the office of the Secretary of the Treasury, and at a time when the Secretary of the Treasury was Albert Gallatin. None of the letters so recorded have the name of the Secretary given at the end thereof. See act of 3d Mar., 1843, as to this omission.)

Plat of the Marietta dist., showing 100,000 tract and tracts A and C, referred to in the foregoing letter.

[*For plat see original, page* 26.]

Letter from Com'r G. L. O. to Wyllys Silliman.

GENERAL LAND OFFICE,
18*th November*, 1819.

SIR: Your letter of 8th inst. has been received, and the Sec'y of the Treasury has approved of the selection of the three unsold

quarters of sec'n 21, 6, 10, and of the S. W. ¼ of sec'n 15, in same town'ps and range, for the use of schools, in lieu of 16, 5, 10. You will therefore reserve them from sale.

I am, &c.

To WYLLYS SILLIMAN, Esq.,
Register, Zanesville, Ohio.

Copies of Entries made in Tract-book.

The following are the entries made on the tract-book, showing the disposition made of land in T. six, R. ten. (On the page occupied by sect. 15): The S. W. ¼ of this section reserved for the use of schools by the Sec'y of the Treasury, on the 17th of Nov., 1819, in lieu of 16, 5, 10. See section 21. (On the page occupied by sect. 21): The N. E., S. E., and S. W. quarters of this section reserved by the Sec'y of the Treasury for the use of schools, in lieu of sec'n 16, 5, 10, on the 17th November, 1819. See S. W. ¼ of 15.

Certificate of Com'r G. L. O.

GENERAL LAND OFFICE,
August 9, 1852.

I, John Wilson, acting Commissioner of the General Land Office, do hereby certify that the annexed eleven pages, marked respectively from 1 to 11 inclusive, are true and literal exemplifications from the files and records of this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

JOHN WILSON,
Acting Commissioner of the General Land Office.

Exhibit "E."

Extract from Tract-book "E."

Tract-book of land sold at Marietta, Ohio, land office, and transferred to Chillicothe land office, and now in said office.—Remnant of the donation tract of one hundred thousand acres.

Quantity.

	Section.	Township.	Range.	Acres.	100 ft.	To whom sold.	Residence.	When sold.
Lot No. 1	...	8	11	111	25	Samuel Camp.....	Washto. C., O.	1836, Mar. 14.
2	...	...	.....	111	25	Samuel Camp.....	"	1836, March 30.
3	...	...	.....	111	25	George P. Hisby...	"	1836, July 6

Exhibit "E."—Continued.

	Section.	Township.	Range.	Acres.	100 ft.	To whom sold.	Residence.	When sold.
4	...	...	.....	111	25	Timothy Blackner	Morgan	1836, Sept. 26.
5	...	...	.....	111	25	Jesse Blackner.....	.....	1836, July 6.
	9	...	11					
6	...	...	.....	100	.....	School.		
7	...	...	.....	100	.....	Do.		
8	...	...	.....	100	.....	Do.		
9	...	...	.....	100	.....	Do.		
10	...	...	.....	100	.....	Do.		
11	...	...	.....	100				

JAMES SMITH BELMONT.

1834, Feb. 8.

Here follow numbers to 34, entered by different individuals.

34	...	...	.....	76		School.		

Here follow numbers to 59, entered by different individuals.

	9	11						
59	...	...	.....	65	59	School land.		

The above appears in the handwriting of Joseph Wood, the late register of Marietta land office; and I further certify, that I have not been able to find any plat of surveys of land for township nine, in range eleven, in this office, as should have been transferred from Marietta land office; I further certify, that the word school opposite to lot No. 6 is in ink, and the word do. opposite to 7, 8, 9 and ten is in ink, and the word school opposite to lot 34 is ink, and the words "school land," opposite to lot number 59, is in ink, and are in apparently the same handwriting as the other entries of the book.

LAND OFFICE, CHILLICOTHE, OHIO, *September* 22*d*, 1852.

I hereby certify that the above is substantially a correct copy from the book of the former Marietta land district, now in this office.

ANTHONY WALKE,
Register.

Deposition of Anthony Walke, Exhibit "F."

THE STATE OF OHIO,
Com. Pleas, Morgan County, ss.

JOHN LANE
ads.
JOHN DOE, ex demise EWING & COOMBS.

SIR: Please take notice that I will attend at the office of the register of the Chillicothe land office, in the city of Chillicothe, Ross

county, Ohio, on the 20th inst., between the hours of ten o'clock a. m. and 4 o'clock p. m., on said day, to take the deposition of Anthony Walke, to be read in evidence on the trial of above case, on part of defendant.

December 10th, 1852.

J. E. & J. S. HANNA,
Att'ys for Def't.

C. B. TOMPKINS, Esq.

I acknowledge service of the above notice, and waive all authentication but the official signature and certificate of the officer taking the deposition; and I further agree, that said deposition may be used in the several cases pending in said court on the demise of Coombs and Ewing.

December 10th, 1852.

C. B. TOMPKINS,
Att'y for Pl'ff.

F.

JOHN DOE, ex demise EWING and COOMBS,
vs.
JOHN LANE.

Court of Common Pleas, Morgan County, Ohio.

Deposition of a witness taken in a cause pending in the court of common pleas of the county of Morgan and State of Ohio, wherein John Doe, ex demise Ewing & Coombs, is plaintiff, and John Lane is defendant, and for said defendant, in pursuance of the foregoing notice, and at the time and place therein mentioned; the defendant by his attorney, S. S. Cooke, present; plaintiff, John Doe, not present by himself or attorney.

Anthony Walke, of the county of Ross and State of Ohio, of lawful age, being first duly sworn by me, as hereinafter certified, deposes as follows:

Question by defendant's attorney: Are you at this time the register of the land office of the United States at Chillicothe, Ohio?

Answer. I am.

Question. How long have you been such register?

Answer. Since the first November, in the year 1849.

Question. State what you know of the location of any land warrants on lands belonging to the United States in the ninth township, of the eleventh range, known as the Donation tract, in Ohio, on or about the 20th day of May, 1851?

Answer. At that date (May 20th, 1851) Thomas Ewing, jr., as attorney for the parties, located a one hundred and sixty acre warrant, No. one thousand and sixty, in favor of Henry S. Addison, upon lots No. six and fifty-nine; and a one hundred and sixty acre warrant, No. one thousand five hundred and twenty-eight, in favor

of Samuel A. H. Marks, upon lots No. seven and eight; and a one hundred and sixty acre warrant, No. one hundred and thirteen, in favor of William P. Young, on lots No. nine and ten; and an eighty acre warrant, No. nine hundred and seventy-one, in favor of William J. Parham, on lot No. thirty-four; all said lots lying in the ninth township, of the eleventh range, as before mentioned.

Question. State whether at the time such locations were made, Mr. Ewing, or any other person in their behalf, filed any affidavit or affidavits, or adduced any other evidence that there was no actual settlement and cultivation on said lands?

Answer. All the papers and evidence in connection with each warrant as above located were transmitted on the 7th day of July, 1851, to the Commissioner of the General Land Office at Washington. There are no papers or evidence now remaining on file in this office in those cases, except the register and tract-book entries. I do not recollect that any evidence or affidavits were offered or filed at that time, or at any other time, showing that there was no actual settlement or cultivation on said lots, nor do I believe that any was necessary, under the law under which said warrants were issued, and by instructions from the department.

Question. Was there any evidence at that time, or any other time, produced, showing that such location or entry was made with the consent of the settlers upon such lands?

Answer. No, there was not any, as the books themselves showed the lands were vacant and unoccupied, and subject to entry, and further this deponent saith not.

ANTHONY WALKE,
Register.

I, William H. Skerrett, a notary public in and for the county of Ross, and State of Ohio, do hereby certify that the above named Anthony Walke was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the foregoing deposition, by him subscribed, was reduced to writing by me, and was taken at the time and place specified in the enclosed (foregoing) notice.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal, this twentieth day of December, in the year of our Lord one thousand eight hundred and fifty-two.

WM. H. SKERRETT, [SEAL.]
Notary Public.

[*For plat marked* G, *see original, page* 33.]

Remnant of the Donation Tract of one hundred thousand acres in Township No. 9, of Range N. 11.

Posts.	Bearing trees.	Inches diameter.	Courses they bear.	Links distant.	Posts.	Bearing trees.	Inches diameter.	Courses they bear.	Links distant.	Corners of lots.	Bearing trees.	Inches diameter.	Courses they bear.	Links distant.
A	W. oak....	18	N. 10 W.	18	K	W. oak.....	12	S. 42 W.	19	25 and 26 (or west)	W. oak....	16	S. 47 E.	16
						B. oak.....	22	N. 23 W.	12	.....	Dogwood.	5	N. 17 W.	16
a	Beech.....	22	S. 26 E.	16	k	W. oak.....	20	S. 52 E.	26	26, 27 West.....	W. oak....	10	N. 88 W.	25
	Do.	10	N. 22 W.	49	.....	B. oak.....	16	N. 85 E.	27	.....	Do.	16	S. 59 E.	16
B	W. oak....	12	N. 62 E.	4	L	Beech.....	8	Corner.	.....	27, 28 W.....	W. oak....	36	S. 50 E.	45
						Do.	20	S. 54 W.	37					
						Do.	8	S. 89 E.	14	.....	Ash	10	N. 37 W.	22
b	Maple.....	12	N. 27 W.	24	l	Beech.....	10	S. 6 E.	12	28, 29 W.....	Hickory	14	North	10
	Sugar	8	S. 19 E.	26	.....	.....	.....	.....	.....	.....	Poplar	18	S. 14 E.	36
C	Gum.....	9	N. 47 W.	25	M	W. oak.....	36	S. 8 E.	12	29, 30 W.....	Dogwood.	5	S. 54 W.	12
	W. oak....	12	N. 63 E.	33	.....	Elm.....	7	N. 32 E.	15	.....	Poplar	24	East	33
c	Beech.....	8	N. 84 E.	33	m	Sugar tree...	.....	Corner.	.....	30, 31 W.....	Poplar	12	North	4
	Do.	8	N. 55 W.	43		Beech.....	13	N. 85 W.	28					
						Iron wood...	7	S. 40 E.	10	.....	B. oak.....	20	South	30
D	W. oak....	20	S. 43 E.	14	N	Ches't oak...	16	S. 28 W.	42	31, 32 W.....	B. oak.....	24	S. 11 E.	12
	Hickory...	14	N. 62 E.	27	.....	Hickory	8	N. 51 E.	45	.....	Dogwood.	5	N. 30 W.	29
d	W. oak....	12	S. 6 W.	6	n	W. oak.....	14	N. 18 E.	9	32, 33 W.....	B. oak.....	16	S. 36 E.	15
	Do.	10	N. 41 E.	10	.....	Do.	14	S. 16 E.	19	.....	W. oak....	14	S. 12 W.	32
E	Ash	17	S. 11 W.	15	O	W. oak.....	.....	Corner.	.....	33, 34 W.....	Hickory...	12	S. 50 W.	25
	W. oak....	10	S. 75 E.	15	.....	Do.	16	N. 68 W.	14					
						Do.	14	N. 52 E.	26	.....	Do.....	10	S. 85 E.	35
e	Hickory...	14	N. 45 W.	18	o	W. oak.....	24	S. 62 E.	22	23, 24 E.....	W. oak....	12	S. 23 E.	18
	Do. ...	9	S. 22 E.	28	.....	Sugar tree...	14	S. 75 W.	24	.....	Do. ...	9	N. 2 E.	20
F	Dogwood.	5	N. 11 W.	12	P	Ches't oak...	8	N. 1 W.	35	22, 23 E.....	Sugar tree	10	S. 13 E.	25
	Ch't oak..	12	S. 7 E.	36	.....	W. oak.....	9	S. 10 E.	18	.....	Poplar	16	N. 60 W.	32
f	B. oak.....	20	North.	12	p	Dogwood....	6	N. 42 W.	4	21, 22 E.....	W. oak....	16	N. 79 E.	9
						W. oak.....	14	S. 28 E.	15	.....	B. oak.....	14	S. 50 W.	16

G	Maple.....	8	S. 50 E.	7	Q	B. oak.....	22	North.	48	20, 21 E.....	Hickory }	.....	Cor'r tree.	
	Beech.....	6	S. 83 E.	18	.....	.....	.....	.....	.....	.....	Do. }	12	N. 50 W.	26
	Beech.....	12	S. 37 W.	23	q	Beech.....	12	N. 8 E.	40	.....	Red oak }	18	S. 54 E.	46
	W. oak....	8	North.....	14	.....	.....	.....	.....	.....	19, 20 E.....	Beech... }	.....	Corner.	
H	W. oak....	6	N. 22 W.	20	R	W. oak.....	8	S. 65 W.	16	.....	Red oak }	20	N. 74 E.	23
	Poplar	10	N. 79 E.	11	.....	Beech.....	12	N. 84 E.	32	.....	W. oak. }	20	N. 24 W.	56
h	Gum.....	16	N. 5 W.	21	r	W. oak.....	12	S. 4 E.	8	18, 19 E.....	Ches't oak	14	S. 57 W.	9
	Dogwood.	4	S. 27 W.	25	.....	Do.	14	N. 4 W.	14	.....	Spa'h oak	15	N. 64 E.	23
I	Gum.....	9	S. 70 W.	20	S	W. oak.....	24	S. 41 W.	23	17, 18 E.....	Maple.....	10	N. 3 W.	31
	Ch't oak..	20	S. 68 E.	35	.....	B. oak.....	18	N. 44 E.	41	.....	Hickory...	6	S. 50 W.	27
i	Beech.....	13	West.....	30	s	Dogwood....	6	North.	4	16, 17 E.....	W. oak....	10	N. 3 E.	17
	Hickory...	14	N. 76 E.	21	.....	Do.	6	S. 5 E.	41	.....	Dogwood.	8	S. 60 W.	21
					T	Dogwood....	8	N. 43 E.	27	15, 16 E.....	W. oak....	18	S. 81 W.	62
						Do.	4	S. 10 E.	4	....	Hickory...	10	S. 69 E.	63
					t	Beech.....	14	N. 72 W.	11	14, 15 E.....	Hickory...	12	S. 2 E.	4
						Do.	14	S. 46 E.	20	.....	B. oak.....	15	N. 42 E.	25
					U	Beech.....	10	S. 16 E.	18	13, 14 E.....	B. oak.....	20	N. 73 E.	8
						Dogwood....	5	S. 72 W.	25	.....	Poplar	12	N. 39 E.	18
					u	B. oak.....	20	S. 81 W.	21	12, 13 E.....	B. oak.....	14	N. 63 E.	9
						Dogwood....	5	N. 71 E.	16	.....	W. oak....	9	S. 57 W.	20
										11, 12 E.....	Hickory...	10	N. 20 W.	12
											Poplar	12	S. 9 W.	16
										10, 11 E.....	Hickory...	9	N. 11 W.	8
											Do. ...	11	S. 30 W.	14
										9, 10 E.....	Dogwood.	5	N. 49 W.	8
											Do. .	6	N. 87 E.	14

February 6th, 1835.—Received this day, of John B. Stone, three dollars for the above plan and description, in full.

JOSEPH WOOD.

Examined and compared.

JOSEPH WOOD, *Register.*

Dickens's Lessee vs. Mahama.

1242
23

Order of Board of Com'rs Wash. Co.

COMMISSIONER'S OFFICE, MARIETTA,
June 13, 1818.

The board of commissioners, of Washington county, being satisfied that there are twenty electors residing in the 5th township of the tenth range in said county, and application having been made to them to organize the said township for the purpose of deriving the benefits arising from school section No. sixteen, situate therein, do order that the qualified electors residing in said township five, in range No. ten, meet at the tavern-house of John Patterson, esq., in said township, on Monday the third day of August next, at nine o'clock a. m., to elect three trustees and one treasurer, to take charge of the said school section agreeable to law.

By order of the board of commissioners.

Attest: DANL. H. BUELL, *Cl'k Com'rs.*

Record of Election, &c.

AUGUST 3, 1818.

In pursuance of the above order the qualified electors of the township of Waterford, county of Washington, and State of Ohio, met at the time and place agreeable to the above warning and made choice Genl. Eli Cogswell, chairman; after being sworn into office, then proceeded to elect three trustees and one treasurer to take charge of school lot No. sixteen, in the 5th township, and tenth range, and made choice of Obadiah Scott, esq., Genl. Eli Cogswell, and Capt. James Leget, trustees, and Capt. Rothurs Hayward, treasurer. The said trustees sworn into office before Wm. Rand, esq., of said township. Then dissolved said meeting. A true copy from the records of said township.

Attest: JESSE DAVIS, *Town Clerk.*

Petition of Trustees.

To the honorable Wm. H. Crawford, Secretary of the Treasury of the United States.

The petition of the undersigned, being trustees (chosen by the legal electors of the fifth township, and tenth range, in the county of Washington, State of Ohio, now known by the name of Waterford,) to take charge of the sixteenth section of land in said township, which is considered to be the section in each township which our general government in their benevolence have, by their laws, ordered to be appropriated for the use of schools for the education of youth, we, your honor's petitioners, after being sworn to the faithful performance of our duty as trustees, proceeded to inquire after the sixteenth section of land in s'd township, and find that s'd section has been, by order of government, divided into lots of

one hundred acres, and donated to individuals, who continued in this part of the United States and assisted in defending this, our western country, against the depredations of the savages in the late Indian war in this section of the Union. We further find the s'd sixteenth section, so appropriated, is a valuable tract of land, and lieth on a public road leading from Marietta to Zanesville; and could we obtain it, it would be well worth six dollars per acre to the inhabitants for the purpose it was first assigned in a state of nature. The law of the United States (if we mistake not) contemplates that where the exigencies of our general government require that those lands should be donated or taken to answer the purpose of government, and there is no land in such township belonging to government which may be granted to the inhabitants for the use of schools, they shall have a grant for that purpose in the next adjoining township.

We, the undersigned, your honor's petitioners, in behalf of the inhabitants of the said township of Waterford aforesaid, pray that you, in your wisdom and clemency, will be pleased to grant to the inhabitants of Waterford, for the use of schools forever, the twenty-first section of land in the sixth township and tenth range, as a remuneration for the one that has been justly taken from us to answer the wise purposes of our General Government.

As in duty bound, ever pray.

OBADIAH SCOTT,
JAMES LEGET,
ELI COGSWELL,
Trustees under oath.

Dated Waterford, Washington county, State of Ohio, October 4, A. D. 1818.

Letter of Reg'r at Marietta to Com'r G. L. O.

MARIETTA, *Jan'y* 2, 1819.

SIR: I have the honor to transmit return for the quarter ending Dec'r 31st, 1818, in which are four transfers and twenty-three final certificates. I have received from the surveyor gen'l, E. Tiffin, esq., plats of the survey of the remnants of the Donation lands, a part of which was formerly selected by the Secretary of the Treasury to replace certain school lots. As no reserve has been made in the surveys, I thought it necessary to give you this information.

I am, respectfully, sir, your most ob't serv't,

JOSEPH WOOD, *Reg'r.*

JOSIAH MEIGS, Esq., *Com'r.*

Letter of Reg'r at Marietta to Com'r of G. L. O.

MARIETTA, *April 23d*, 1819.

SIR: In a former letter I informed you that in the remnant of the Donation lands, two sections, or a quantity equal thereto, were selected by the Secretary of the Treasury for school purposes. In the survey of these remnants, made by the surveyor gen'l, no respect whatever was made to those selections. The receiver and myself are at a loss to know whether or not we are to offer them at public sale, and request information on the subject.

I am, very respectfully, sir, your most humble serv't,

JOSEPH WOOD, *Reg'r.*

JOSIAH MEIGS, Esq., *Com'r G. L. O.*

Letter of Com'r G. L. O. to Joseph Wood, Reg'r.

GENERAL LAND OFFICE,
7th Sept'r, 1819.

SIR: The Hon'ble Levi Barber informs me that the trustees for managing the school fund in Ohio are desirous of having sect'n 21, 5, 8 for the use of schools. Your letter of the 2d of Jan'y observes that the Secretary of the Treasury had formerly made a selection for replacing certain school lots in the Ohio Company's purchase, which selection is not noted on the surveys, the receipt of which that letter acknowledges. You will reserve sect'n 21, 5, 8 from sale, and inform me when the selection was made by the Secretary, that I may obtain his approbation of the exchange.

I am, &c.

JOSEPH WOOD, Esq., *Reg'r, Marietta.*

Letter of Joseph Wood, Reg'r, &c., to Com'r G. L. O.

MARIETTA, *Sept. 14th*, 1819.

SIR: I have received yours of the 7th instant, relating to certain school lands. In reply to which, beg leave to inform you that the selections of lands to replace section No. 16, in the Donation and other lands, was made by the Secretary July 13th, 1805. Observe that sec. No. 21, 5, 8, is in the district of Zanesville.

Remain, very respectfully, sir,
Your very humble serv't,

JOSEPH WOOD.

JOSIAH MEIGS, Esq.,
Com'r G. L. O., Washington.

Letter of Com'r G. L. O. to the Sec'y of the Treasury.

GENERAL LAND OFFICE,
29*th Sept.*, 1819.

The SECRETARY OF THE TREASURY:

SIR: I have the honor to enclose letters from the Hon'ble Levi Barber. The selection of sec'n 21, 5, 8, (Zanesville district,) for schools, in lieu of sect'n 16, 4, 8, which was not reserved, requires your approbation; which I will thank you to give on this paper, that this selection may be filed with similar selections made by the Secretaries of the Treasury.

I am, most, &c.

Letter of Com'r G. L. O. to Wyllis Silliman, Reg'r, &c.

GENERAL LAND OFFICE,
30*th Septem'r*, 1819.

SIR: The Secretary of the Treasury has selected sect'n 21, 5, 8, for the use of schools, in lieu of 16, 4, 8, in the Donation tract; you will therefore reserve that section from sale.

I am, &c.

WYLLIS SILLIMAN, *Reg'r, Zanesville.*

Same to Same.

GENERAL LAND OFFICE,
1*st Oct'r*, 1819.

SIR: Messrs. Scott, Legat, and Cogswell, the school trustees for town'p 5, range 10, have applied for section twenty-one, in town'p six, range ten, in lieu of sect'n sixteen in their township. One quarter of section twenty-one having been sold, the Secretary of the Treasury directs that you shall reserve from sale the three remaining quarters, and another quarter to be chosen by the trustees, or an entire section if they prefer one. Let me know their determination, that it may be submitted to the Sec'y for his approval.

I am, &c.

WYLLIS SILLIMAN, *Reg'r, Zanesville.*

Letter from Com'r G. L. O. to Wyllys Silliman, Reg'r, &c.

GENERAL LAND OFFICE, 18*th Novem'r*, 1819.

SIR: Your letter of the 8th inst. has been received, and the Secretary of the Treasury has approved of the selection of the three unsold quarters of sec'n 21, 6, 10, and of the S. W. ¼ of sec'n 15,

in same town'p and range, for the use of schools, in lieu of 16, 5, 10; you will, therefore, reserve them from sale.

I am, &c.

WYLLYS SILLIMAN, Esq.,
Reg'r, Zanesville.

Extract of a letter from the Commissioner of the General Land Office to John Badott, Esq., Reg'r, Vincennes, dated 14th January, 1820.

SIR: The lands in the reserved tract not having been prepared for sale at the time appointed by the proclamation, they must be again advertised, and at the same time the lands formerly reserved for Fort Harrison will be advertised. When you receive the surveys advise me thereof, that a proclamation may be prepared.

The act of 18th of March, 1818, sec'n 3d, provides for the reservation of the usual proportion of land for the use of schools; but as it does not prescribe when and by whom the selection shall be made, you may make the selection for the approbation of the Secretary of the Treasury, on whom heretofore the selections have been devolved by law, and withhold them from sale until he can decide.

I am, &c.

Certificate of Com'r G. L. O.

GENERAL LAND OFFICE, *March* 31, 1856.

I, Thomas A. Hendricks, Commissioner of the General Land Office, do hereby certify that the foregoing eleven (11) pages are truly copied from the files and records of this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

THOS. A. HENDRICKS,
Commissioner.

Journal Entry—Allowance of Writ of Error.

And afterwards, to wit, at the February term of said court, in the year of our Lord one thousand eight hundred and fifty-seven, February 26th, said court caused the following entry to be made upon its journal, to wit:

LESSEE OF FRANCIS A. DICKENS
vs.
ALONZO MAHANA.
} In Ejectment.

Judgment December Term, 1856.

On motion of plaintiff, by his attorneys, the court allow a writ of error in this case to the Supreme Court of the United States, on bond

being given according to the act of Congress in such case made and provided, in the penal sum of five hundred dollars; whereupon the plaintiff gave bond to the acceptance of the court, which bond is in the words and figures following, to wit:

Bond.

Know all men by these presents, that we, Francis A. Dickens and Thos. Ewing, jr., and P. B. Ewing, are held and firmly bound unto Alonzo Mahana in the penal sum of five hundred dollars, to the payment of which, well and truly to be made, we do by these presents, jointly and severally, bind ourselves, and heirs, executors, and administrators. Sealed with our seals, and dated this 26th day of February, A. D. 1857.

The condition of this obligation is such, that whereas the said Francis A. Dickens has obtained an allowance of a writ of error upon a certain judgment in the circuit court of the United States, seventh circuit and southern district of Ohio, at the December term thereof, A. D. 1856, in favor of Alonzo Mahana, in an action of ejectment brought by John Doe, ex dem. Francis A. Dickens, against the said Alonzo Mahana, wherein a judgment was rendered in favor of the said Alonzo Mahana against the said Francis A. Dickens for the sum of fifty-three dollars, and five cents costs: Now, if the said Francis A. Dickens shall pay the condemnation money and costs in case the said judgment of the said circuit court shall be affirmed by the Supreme Court of the United States, in whole or in part, then the above obligation shall be void, otherwise in full force in law.

THOS. EWING, JR. [SEAL.]
P. B. EWING. [SEAL.]

THE UNITED STATES OF AMERICA,
Southern District of Ohio, ss.

I, William Miner, clerk of the circuit court of the United States within and for the seventh circuit and southern district of Ohio, hereby certify that the foregoing is truly taken and copied from the records of the proceedings of said court.

In testimony whereof, I do hereunto my name and affix the [L. S.] seal of said court, at Cincinnati, this 27th day of February, A. D. 1857, and in the 81st year of the independence of the United States of America.

WM. MINER, *Clerk*.

Supreme Court of the United States.

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America to the honorable the judges of the circuit court of the United States, southern district of Ohio, 7th circuit, greeting:

Because in the record and proceedings, and also in the rendition

of a judgment in a plea, which is in the said circuit court, before you, between John Doe, ex dem. Francis A. Dickens, plaintiff, and Alonzo Mahana, defendant, a manifest error hath happened to the great damage of the said plaintiff, as by his complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in his behalf: You are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington, on the first Monday in the month of December next, in the said Supreme Court, then and there to be held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this 26th day of
[L. S.] February, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America the 81st.

Attest:

WM. MINER, *Clerk.*

THE UNITED STATES OF AMERICA.

Supreme Court of the United States.

To Alonzo Mahana, greeting:

Whereas John Doe, ex dem. Francis A. Dickens, obtained the allowance of our writ of error to the circuit court of the United States, southern district of Ohio, seventh circuit directed, to remove into the said Supreme Court, to be holden at the city of Washington, on the first Monday in the month of December next, the record of a certain plaint, process, proceedings and judgment in an action of ejectment wherein you, the said Alonzo Mahana, in that action lately recovered against the said John Doe, ex dem. Francis A. Dickens, a judgment for the sum of fifty-three dollars, and five cents costs, as by the said record in the said circuit court of the United States southern district of Ohio, seventh circuit, remaining appears, in which said record and proceedings, and also in the rendition of the judgment thereupon, manifest error hath intervened, as by the said John Doe, ex dem. Francis A. Dickens, we are informed, and our said writ of error granted, issued and allowed as aforesaid, for the purpose of correcting the errors aforesaid alleged, if any there be: You are, therefore, hereby commanded and cited to be and appear before the judges of the said Supreme Court, at

the city of Washington, at the next term of said court, to be holden on the first Monday in the month of December next, to have the errors aforesaid corrected, and the judgment of our said Supreme Court thereupon.

Witness the Honorable Roger B. Taney, Chief Justice of the United States of America, this 26th day of February, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America the 81st.

H. H. LEAVITT, [L. S.]
Judge of said Court.

We acknowledge service of the within citation March 11th, 1857.

JOHN E. HANNA,
AMES NYE,
Att'ys and Counsel for Defd's.

Filed 21st October, 1857.